

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	x
	:
UNITED STATES OF AMERICA	:
	:
-V.-	:
	:
BRIAN H. MADDEN,	: <u>PRELIMINARY ORDER OF FORFEITURE</u>
	: <u>AS TO SPECIFIC PROPERTY</u>
	:
Defendant.	: 09 Cr. 799 (SHS)
	:
	:
	:
-----	x

WHEREAS, on or August 19, 2009, BRIAN H. MADDEN (the “Defendant”), was charged in a three-count Indictment, 09 Cr. 799 (RWS) (the “Indictment”), with participating in, and aiding and abetting, a wire fraud scheme, in violation of 18 U.S.C. § 1343 and 2 (Count One); with money laundering, in violation of 18, U.S.C. §§ 1956(a)(1)(B)(i) and 2 (Count Two); and with engaging in, and aiding and abetting, the embezzlement or misappropriation of money held by an insurance agent or employee, in violation of 18 U.S.C. § 1033(b)(1)(A) and 2 (Count Three);

WHEREAS, the Indictment included forfeiture allegations as to Counts One and Two, seeking forfeiture to the United States, pursuant to 18 U.S.C. § 982, of any property constituting or derived from proceeds obtained directly or indirectly as a result of the wire fraud offense, including but not limited to at least \$9,967,682 in United States currency; and all property, real and personal, involved in the money laundering offense and all property traceable to such property, including but not limited to at least \$4,907,156 in United States currency;

WHEREAS, on or about December 14, 2010, the Defendant pled guilty to Counts One and Three of the Indictment;

WHEREAS, on or about October 4, 2011, the Court entered a Consent Preliminary Order of Forfeiture, imposing a forfeiture money judgment in the amount of \$9,967,682.00 in United States currency (the “Money Judgment”) and forfeiting to the United States all of the Defendant’s right, title and interest in various assets (the “Forfeited Property”) (Dkt. No. 49);

WHEREAS, on or about February 7, 2017, the Court entered a Final Order of Forfeiture (“Final Order of Forfeiture”) (Dkt. No. 66), forfeiting the Forfeited Property;

WHEREAS, the remaining outstanding balance of the Money Judgment to date is \$8,865,273.06;

WHEREAS, on or about April 20, 2010 (Dkt. No. 26) the Court entered a Stipulated Seizure Order as to \$181,228.86 transferred by the Defendant to Commonwealth Land Title Insurance Company in or about April 2009, and any interest traceable thereto (the “Specific Property”);.

WHEREAS, the Government seeks the forfeiture of all of the Defendant’s right, title and interest in the Specific Property as proceeds traceable to the offenses charged in Count One of the Indictment; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. As a result of the offenses charged in Count One of the

Indictment, to which the Defendant pled guilty, all of the Defendant's right, title and interest in the Specific Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Preliminary Order of Forfeiture as to Specific Property is final as to the Defendant, BRIAN H. MADDEN, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. Upon entry of this Preliminary Order of Forfeiture as to Specific Property, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, www.forfeiture.gov. This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii)

shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed. All Specific Property forfeited to the United States under a Final Order of Forfeiture shall be applied towards the satisfaction of the Money Judgment.

10. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

11. The Clerk of the Court shall forward three certified copies of this Preliminary Order of Forfeiture as to Specific Property to Assistant United States Attorney

Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises
Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

Dated: New York, New York
November 2, 2020

SO ORDERED:

A handwritten signature in blue ink, reading "Sidney H. Stein". The signature is written in a cursive style with a large initial "S".

HONORABLE SIDNEY H. STEIN
UNITED STATES DISTRICT JUDGE